



MEMORANDUM

TO: Mayor and Council Members
FROM: Howard S. Lazarus, City Administrator
DATE: March 3, 2017
SUBJECT: Proposed Amendment to City Code – Solicitation of Immigrant Status

I am writing to provide preliminary information and recommendations related to the item Council will consider at its March 6, 2017 meeting to add Chapter 120, Solicitation of Immigrant Status, to Title IX of the Code of the City of Ann Arbor. Specifically, this memorandum addresses Presidential Order No. 13,768 and the City's obligations under that action.

Currently, the Executive Order defines a "sanctuary jurisdiction" as one that "willfully fails to comply with 8 U.S.C. 1373 which is a federal statute that prohibits local and state governments from enacting laws or policies or engaging in practices that prohibit or restrict communication with the Department of Homeland Security (DHS) about "information regarding the immigration or citizenship status" of individuals. The City Attorney has determined that current Council Resolutions, such as Resolution R-295-7-03 and R 12-021, do not appear to violate the prohibition as written. Given the definition provided above in the Executive Order, and to provide threshold protection and preserve legal defenses to the City from any federal claims of willful failure to comply with 8 U.S.C 1373, Council should consider in any further resolution or ordinance addressing immigration issues having a provision that specifically states that the City's intention to comply with 8 U.S.C 1373.

Our primary focus concerning 8 U.S.C. 1373 compliance has been on the practices of the Ann Arbor Police Department (AAPD). The current practices are consistent with both the intent of Council and federal law. Notwithstanding, Council may contemplate resolving to support, adding to and/or affirming as ordinances the following practices:

- Confirming that the City does not solicit information about immigration status. This is already the practice of the AAPD and is being codified by proposed ordinance before the Council.
- Clarifying that the City will not enter into any agreement under 8 U.S.C. Section 1357(g) to have local police assist in the enforcement federal immigration law. However, Council may want to qualify this by allowing AAPD presence at federal immigration enforcement activities in our jurisdiction to ensure the protection and welfare of our residents—but not in a role of assistance or cooperation with federal authorities.
- Confirming that the AAPD does not detain persons based on an "immigration detainer" request, because compliance with such a request is a voluntary, not currently required by federal law. This is already is set forth in Council Resolution R-295-7-03.

- Confirming that the City does not profile based on immigration status. This is already part of AAPD policy and practice. The City Attorney is preparing an ordinance to codify this practice at the request of Council.
- Confirming that the AAPD does not use threats of deportation or other abuse of persons based on immigration status. This is current AAPD policy and practice.
- Confirming clear that the City does not cooperate or assist with any unconstitutional or illegal registration or surveillance programs.
- Communicating and coordinating policies concerning immigration issues with other jurisdictions (and the University of Michigan) as has already begun with an effort by Washtenaw County Sherriff's Office and local governmental officials.

Council has also requested information concerning the federal funding provided to support Ann Arbor programs and projects. The best available data is provided on the attached table. The City is currently in compliance with applicable federal law, and does not believe any of these funds are at risk.

The City Attorney and I have collaborated on the analysis provided above. However, federal policy regarding "sanctuary jurisdictions" continues to evolve, and Mr. Postema and I will continue to update Council as appropriate.

As always, please do not hesitate to contact me if I can be of further assistance.

1 Attachment

cc: S Postema, City Attorney
J Baird, Police Chief

TABLE – FEDERAL GRANT FUNDS PROVIDED TO ANN ARBOR

Federal Grantor	Recipient	Amount Received in 2015/2016
U.S. Department of Housing and Urban Development	AAHC	\$ 17,151,854
U.S. Department of Transportation	AAATA	12,667,042
U.S. Environmental Protection Agency	City	563,920
FEMA	City	356,668
U.S. Department of Transportation	City	140,216
U.S. Department of Justice	City	98,524
U.S. Department of Housing and Urban Development	City	51,788
Department of Homeland Security	City	46,739
U.S. Election Assistance Commission	City	9,120
Executive Office of the President	City	7,940
U.S. Department of Transportation (via MDOT on behalf of the City)	MDOT/City	2,516,690
U.S. Department of Agriculture	County	1,410,488
U.S. Department of Housing and Urban Development	County	3,591,590
U.S. Department of Justice	County	62,039
U.S. Department of Labor	County	2,792,648
U.S. Department of Transportation	County	113,983
U.S. Environmental Protection Agency	County	612,812
U.S. Department of Energy	County	376,594
U.S. Department of Health and Human Services	County	7,773,298
Corporation for National Community Service	County	226,334
Office of National Drug Control Policy	County	1,049,249
Department of Homeland Security	County	572,384
		\$ 52,191,920